

ADVISORY OPINION NO. 90-65
ISSUED BY THE
WEST VIRGINIA ETHICS COMMISSION
ON APRIL 20, 1990

GOVERNMENTAL BODY SEEKING OPINION

A State Senator

OPINION SOUGHT

Whether it is a violation of the Act for a State Senator to be employed as a part-time instructor at a State College?

OTHER FACTS RELIED UPON BY THE COMMISSION

A State Senator would like to be employed as a part-time instructor at a State supported College.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

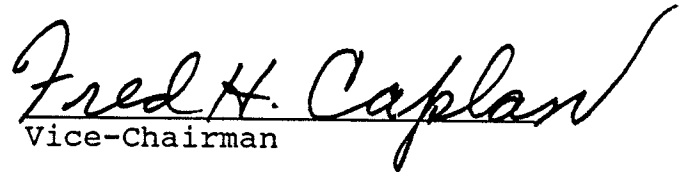
West Virginia Code Section 6B-2-5(b)(1) states that a public official or public employee may not intentionally use his or her office or the prestige of his or her office for his or her own private gain or that of another person. The performance of usual and customary constituent services, without compensation, does not constitute the use of prestige of office for private gain.

West Virginia Code Section 6B-2-5(d)(1) states that no elected public official may be a party to or have an interest in the profits or benefits of a contract with the governmental body over which he or she has direct authority...Provided, That nothing herein shall be construed to prevent or make unlawful the employment of any person with any governmental body: Provided, however, That nothing herein shall be construed to prohibit a member of the legislature from entering in a contract with any governmental body.

ADVISORY OPINION

It is the Commission's opinion that the State Senator is not in violation of subsection 6B-2-5(b)(1) assuming he does not use the prestige of his office for private gain (i.e. to gain employment with the State College).

Also, the Senator's employment would not be a violation of subsection 6B-2-5(d)(1) since the second proviso states that nothing within the Act shall be construed to prevent a member of the Legislature from entering into a contract with any governmental body.


Vice-Chairman